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09/989,313	11/20/2001	J. Michael Anthony Alden	217 P 770	9506

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EXAMINER

COCKS, JOSIAH C

ART UNIT PAPER NUMBER

3749

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/989,313

Applicant(s)

ALDEN, J. MICHAEL ANTHONY

Examiner

Josiah Cocks

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6, 9-12, 14, 15, 18-23, 40-46 and 56-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 9-12, 14, 15, 18-23, 40-46 and 56-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Receipt of applicant's amendment filed 03/04/2004 is acknowledged.

### ***Claim Objections***

2. Claim 18 is objected to because of the following informalities: In line 9, it appears applicant intended to remove the phrase "positioned on" as this phrase is included in the language that was added in the 3/04/2004 amendment. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 43 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 43 recites the limitation "the second position" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim. As best can be determined applicant intended to maintain claim 43 dependent upon claim 41, which introduces first and second positions for the handle, and has been regarded as such for the purpose of an examination on the merits.

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***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4, 6, and 18-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Glenboski et al.* (US # 5,782,165) in view of *Riva* (US # 4,805,526) (cited in PTO-892 form mailed 6/24/03).

*Glenboski et al.* discloses in Figures 1-7 an cooking device/grill assembly capable of use outdoors similar to that described in applicant's claims 1-4, 6, and 18-23 including a cooking chamber (16) and a removable curvilinear central portion (22) received in the cooking chamber and having a cooking surface and flat bottom panel (102) (see Fig. 1B), a mating lid (14), a flange (106) depending from an outer edge and circumferentially around the central portion, a plurality of tab portions (108) that are part of the flange and extend radially outward relative to the central portion and include holes (see Fig. 1B). The examiner considers that these tabs with holes would function as handles. *Glenboski et al.* further teaches that the flange functions to support the central portion (22) on the tabs/supports (82) of pan (60) (see col. 4, lines 4-21).

*Glenboski et al.* possibly does not disclose an upwardly extending first wall extending radially outward from the central portion to an intermediate top wall and does not disclose a that the flange is downwardly directed.

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*Riva* teaches a cooking pan in the same field of endeavor as *Glenboski et al.* wherein the pan of *Riva* includes an upwardly extending first wall extending radially outward from the central portion to an intermediate top wall and a radially extending flange that is downwardly directed (see Fig. 2 and 4a).

Therefore, in regard to claims 1-4, 6, and 18-23, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the cooking pan of *Glenboski et al.* to incorporate the upwardly extending first wall and downwardly directed flange as these structures desirably form a folded edge which functions as a hand grip (see *Riva*, col. 1, lines 55-58). The examiner considers that when the flange of *Glenboski et al.* is modified to include the downwardly sloping portion of *Riva* the flange will still function to support the central portion of the cooking pan in the cooking chamber.

7. Claims 9-12, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Glenboski et al.* in view of *Riva* as applied to the claims in paragraph 4 above and further in view of *Hoff* (US # 5,363,977).

*Glenboski et al.* in view of *Riva* teach all the limitations of applicant's claims 9-12, 14, and 15 except for a annular top wall.

*Hoff* teaches a cooking device in the same field of endeavor as *Glenboski et al.* wherein the device of *Hoff* includes a central barbecue portion (36) forming a cooking surface, wherein the central portion is in the form of a circle having an annular top wall (see Fig. 1A) and an annular flange for supporting the central barbecue portion (36) on a tubular central housing member (20).

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In both *Glenboski et al.* and *Hoff* the shape of the central portion top wall and flange is determined based on the shape of the outer housing on which the central portion is supported. As shown in *Hoff*, it is well known in the art that this shape may be tubular or circular forming an annular flange and top wall and that this shape contributes to the device being portable (see col. 1, lines 47-61).

Therefore, in regard to claims 9-12, 14, and 15, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the central portion of *Glenboski et al.* to include an annular flange and annular top wall such as that taught by *Hoff* for the purpose of matching the shape of the outer housing in order to render the device portable (see col. 1, lines 47-61)

8. Claims 40, 41, 43-46 and 56-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Glenboski et al.* in view of *Riva* and *Hoff* as applied to the claims in paragraph 7 above, and further in view of *Chang* (US # 5,213,028).

*Glenboski et al.* in view of *Riva* and *Hoff* disclose all the limitations of claims 40, 41, 43-46 and 56-60 except for an extendable or collapsible handle attached to the top wall. *Glenboski et al.* does disclose handles (114) attached to the top wall but does not describe these handles as extendable or collapsible.

*Chang* teaches a multiple purpose cooking utensil system in the same field of endeavor as *Glenboski* wherein the system of *Chang* includes two attached handles/bails (136 and 138) with hand grips (148 and 150) (see Figs. 17 and 18). As shown in Figs. 19-21 these handles are operably connected to mountings (140) which are considered to be a part of the top wall of the

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utensil and are configured to be rotated from a position where they extend vertically above a cooking dish (Fig. 19) to a position where they no longer extend above the cooking dish (Figs. 20 and 21). As far as is proper, the examiner considers that the rotational movement of these handles from a position where they serve as handles for carrying the dish to position that is away from the top wall of the dish and doesn't block the cooking dish opening to be the equivalent of the extendable and collapsible language used in applicant's claims.

Therefore, in regard to claims 40, 41, 43-46 and 56-60, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the handles of *Glenboski et al.* to incorporate the rotating movement of *Chang* for the desirable purpose of allowing the handles to be arranged in a first position to serve as handles for carrying the cooking dish and in a second position away from the top wall of the cooking dish so as to not interfere with the opening of the cooking dish (see *Chang*, col. 7, lines 16 through col. 8, lines 37).

9. Claims 40-46 and 61-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Glenboski et al.* in view of *Riva* and *Hoff* as applied to the claims in paragraph 7 above, and further in view of *Fawson* (US # 6,706,303).

*Glenboski et al.* in view of *Riva* and *Hoff* disclose all the limitations of claims 40-46 and 61-66 except for an extendable or collapsible handle attached to the top wall wherein the handles slidingly pass through an opening in the top wall and include a blocking portion to allow for the handles to be vertically moveable between first and second positions. *Glenboski et al.* does

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disclose handles (114) attached to the top wall but does not describe these handles as extendable or collapsible and mounted as recited in applicant's claims.

*Fawson* teaches a cooking device in the same field of endeavor as *Glenboski et al.* wherein the device of *Fawson* includes extendable/collapsible handles (250) that vertically slide through holes in the top wall of a cooking portion (210) to a position where the handles are extended and a position where the handles rest against the top wall (see Figs. 4 and 5). The handles also include blocking portions (262) to prevent the handles from being dissociated with the top wall.

Therefore, in regard to claims 40-46 and 61-66, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the handles of *Glenboski et al.* to be extendable/collapsible as taught in *Fawson* as this handle arrangement desirably allows the handles to be collapsed when not in use to a position where they will not interfere with lid placed on the cooking pot (see abstract of *Fawson*).

### ***Response to Arguments***

10. Applicant's arguments filed 3/04/2004 have been fully considered. Applicant's arguments that the prior art does not show a downward flange are moot in view of the newly applied *Riva* reference.

Applicant's argument that they tray 22 of *Glenboski et al.* rests on pan (60) and not on a support portion of the cooking chamber is not persuasive. The examiner considers that the cooking chamber (16) of *Glenboski* includes the pan structure (60). Tray (22) rests on tabs (82) of the pan structure (60) by means of flange (106). Therefore, the examiner considers *Glenboski*



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to show a support member positioned on an inner surface of the cooking chamber as recited in applicant's claims.

Applicant also argues that the handles of *Chang* are not operably connected to the top wall because they are mounted via mountings (140). However, the examiner considers that as shown in Figs. 18 and 24, the mountings (140) are connected to the top wall of the cooking pan and are considered to be part of the top wall.

Applicant's arguments that *Glenboski* and *Hoff* are not combinable because the structure and operation of the primary reference would be dramatically changed is also not persuasive. *Hoff* identifies the tubular/annular shape as desirable for portable cooking systems. The examiner thus considers that a person of ordinary skill in the art would be prompted to modify all necessary components of the outer housing and inner structures of *Glenboski* to incorporate the annular shape as taught by *Hoff*. This modification would not alter the operation of *Glenboski* but would merely modify the shape of the components to have annular configurations.

### ***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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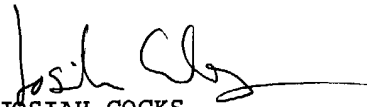
will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (703) 305-0450. The examiner can normally be reached on weekdays from 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached at (703) 308-1935. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

jcc  
May 14, 2004

  
JOSIAH COCKS  
PATENT EXAMINER  
ART UNIT 3749